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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
R. de Sylva
Serial No. 09/942,304
Filed: August 30, 2001
For: COMPACT FLUID
CLEANING SYSTEM

Group Art Unit 1723
Examiner: M. Savage
Date: February 22, 2005

DECLARATION UNDER 37 CFR 1.131
TO SWEAR BEHIND REFERENCE

Commissioner of Patents and Trademarks
Washington, D. C. 20231

Sir:

The enclosed exhibits A - H provide evidence and testimony to antedate US Patent No. 5, 824, 211 (Lowry) for subject matter disclosed and claimed in U.S. Patent Application, Serial No. 08/826,727, which is the parent of the Continuation-In-Part U.S. Patent Application, Serial No. 09/942,304.

Exhibit A: Exhibit A is a letter from a witness Paul Oravec. The fact herein relied upon is that Robert de Sylva conceived embodiments of U.S. Patent Application, Serial No. 08/826,727 before May 3, 1995, as witnessed by Paul Oravec and was diligent in reducing the invention to practice.

Exhibit B: Exhibit B is a letter from a witness Dione Apple. The fact herein relied upon is that Robert de Sylva conceived embodiments of U.S. Patent Application, Serial No. 08/826,727 before May 3, 1995, as witnessed by Dione Apple.

Exhibit C: Exhibit C is a letter from Daniel Potasz, who witnessed Charles Lowry asking Robert de Sylva questions pertaining to Robert de Sylva's proprietary oil recycling system before May 3, 1995. The fact herein relied upon is that Robert de Sylva transferred ideas to Charles Lowry, as witnessed by Daniel Potasz, that were subsequently disclosed in Lowry, and therefore should not be used by Examiner to reject Applicant's claims.

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Exhibit D: Exhibit D is a letter from Robert de Sylva explaining his working relationship with Charles Lowry. The fact herein relied upon is that Robert de Sylva conceived the embodiments of U.S. Patent Application, Serial No. 08/826, 727 before May 3, 1995.

Exhibit E: Exhibit E is a collection of drawings sheets 1-5 employed to construct a prototype of the Fig. 2 embodiment of U.S. Patent Application, Serial No. 08/826, 727. Sheet 1 is a working cross-sectional diagram of the mobile oil recycling device that was used to construct a working prototype, the design/construction beginning in 1995. Sheet 2 is a working diagram constructed by the machinist illustrating the central tube and accompanying grooves employed to enhance the evaporation surface on the interior of the tube. Sheet 3 shows the design of the bottom end cap of the prototype. Sheet 4 shows how the inner tube fits with the end caps. Sheet 5 shows the threading between the outer tube and the end caps of the prototype. The fact herein relied upon is that Robert de Sylva was diligent in reducing the invention to practice in approximately February 1995.

Exhibit F: Exhibit F includes two sheets illustrating diagrams of an oil recycling unit that Robert de Sylva commissioned Charles Lowry to produce via his computer in February 1995 based on Robert de Sylva's input. Charles Lowry was extremely excited to participate in Robert de Sylva's new invention after Robert de Sylva explained to him the details of the invention. Charles Lowry asked Robert de Sylva if he could illustrate Robert de Sylva's proposed oil recycling device via his computer. Robert de Sylva allowed Charles Lowry to construct some figures based on Robert de Sylva's instructions. Exhibit F includes some of those figures. Note that Sheet 1 of exhibit F is very similar to Fig. 1 of Lowry. Although these diagrams do not have the date written on them, they were produced in February 1995. The handwriting on Sheet 1 represents some of my notes to Charles Lowry regarding the diagrams. The notes on Sheet 1 were written (by me) in approximately February 1995. The fact herein relied upon is that Robert de Sylva invented concepts disclosed and claimed in Lowry before May 3, 1995. Furthermore, Robert de Sylva was diligent in reducing the invention to practice by having Charles Lowry develop drawings for the development of a prototype.

Exhibit G: Exhibit G includes photographs illustrating a prototype that Robert de Sylva implemented with the assistance of Paul Oravec subsequent to disclosing the invention to Paul Oravec in 1994. This is the prototype referenced in the letter by Paul Oravec (Exhibit A). Oil analysis was periodically performed by Ana Laboratories (www.analaboratories.com). The device tested successfully. The prototype is still installed on Paul Oravec's truck, and the oil still does not need changing.

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Exhibit H: Exhibit H includes photographs illustrating a second prototype completed shortly after the prototype implemented in Exhibit G. The prototype of Exhibit H was constructed based on the drawings of Exhibit E. This prototype was developed in approximately February 1995.

Robert de Sylva was diligent in pursuing and implementing the invention as evidenced by signed letters of witnesses in the accompanying Exhibits A-D between the date of conception and reduction to practice. The diagrams of Exhibits E and F corroborate diligence prior to the filing date of Lowry, as these diagrams were constructed in preparation for prototype development. This was followed by reduction to practice as illustrated in Exhibits G and H.

The acts herein relied upon to antedate Lowry were performed in the United States.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both.

Respectfully submitted,

Robert de Sylva 2-22-05

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